

Jeana Loewe March 5, 2014

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

HEALTHY ADVICE NETWORKS, LLC,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	No. 1:12 CV 00610
	)	
CONTEXTMEDIA, INC.,	)	
	)	
Defendant.	)	

The deposition of JEANA LOEWE, taken before  
Lydia B. Pinkawa, CSR and Notary Public, pursuant to  
the Federal Rules of Civil Procedure for the United  
States Courts pertaining to the taking of  
depositions, at 25th Floor, 222 North LaSalle Street,  
Chicago, Illinois, commencing at 9:13 a.m., on the  
5th day of March, 2014.

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1 PRESENT:

2 FROST BROWN TODD, LLC  
3 By MR. AARON M. BERNAY  
3300 Great American Tower  
301 East Fourth Street  
4 Cincinnati, Ohio 45202  
(513) 651-6831  
5 abernay@fbtlaw.com

6 appeared on behalf of plaintiff,

7 SIDLEY AUSTIN, LLC  
8 By MR. RICHARD J. O'BRIEN and  
MS. JESSICA JOHNSON  
One South Dearborn Street  
9 Chicago, Illinois 60603  
(312) 853-7283  
10 robrien@sidley.com

11 appeared on behalf of defendant.

12  
13 ALSO PRESENT:

14 Mr. Manuj Lal

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1 JEANA LOEWE,  
2 having been first duly sworn, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BERNAY:

6 Q Good morning. I should have asked you for  
7 this off the record, but you pronounce your name  
8 Jeana Loewe?

9 A Loewe.

10 Q We just met a few minutes before off the  
11 record. I want to start by asking, have you ever  
12 been deposed before?

13 A No.

14 Q Have you ever given prior testimony in court?

15 A No.

16 Q So I want to go over some ground rules. I'll  
17 be asking you a lot of questions this morning. I'm  
18 going to assume that you understand the question I'm  
19 asking and that your answer is responsive to my  
20 question. If at any time you don't understand the  
21 question, please let me know. Can we agree on that?

22 A Mm hmm.

23 Q It's important that we don't talk over each  
24 other to assist the court reporter in keeping an

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1 accurate record, so I'll ask you to wait until I  
2 finish asking a question to answer it. No problem?

3 A Okay.

4 Q In addition, the court reporter can only  
5 capture verbal responses, so no head shakes or  
6 "mm hmm", "unh unh". Yes or no. That's fine?

7 A Okay.

8 Q And if you need a break at any time, just let  
9 me know for any reason. If you're getting tired of  
10 the fluorescent lights, just say I need a break, no  
11 issue at all. All right? Any questions about the  
12 process?

13 A No.

14 Q Are you on any medications today that would  
15 affect your ability to give full, complete and  
16 accurate testimony?

17 A No.

18 Q Are you presently under a doctor's care for  
19 any reason?

20 A No.

21 Q Can you state your full name for the record?

22 A Jeana Rose Loewe.

23 Q And what's your current address?

24 A 901 West Madison, Chicago, Illinois.

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1 Q And let's talk about your education. Did you  
2 complete high school?

3 A Yes.

4 Q Which one?

5 A Hackett Catholic Central.

6 Q And where is that?

7 A Kalamazoo, Michigan.

8 MR. O'BRIEN: If you want to slow down a  
9 little bit. You're talking kind of fast.

10 THE WITNESS: Oh, sorry. I didn't realize I  
11 was.

12 BY MR. BERNAY:

13 Q I'm guilty of the same. Did you attend  
14 college?

15 A Yes.

16 Q Where?

17 A Western Michigan University.

18 Q And did you graduate?

19 A Yes.

20 Q And when?

21 A 2003.

22 Q And what's your degree in?

23 A Public relations.

24 Q Do you have any advanced degrees?

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1 A Yes.

2 Q What are those?

3 A Master's of science in integrated marketing  
4 communications.

5 Q And where is that from?

6 A Loyola University.

7 Q And when did you receive that?

8 A 2012.

9 Q So when were you at Loyola?

10 A 2010 to 2012.

11 Q And that was during your time at Context, is  
12 that correct?

13 A Correct.

14 Q Did Context pay for your Master's degree?

15 A No.

16 Q Ever been convicted of a crime?

17 A No.

18 Q Have you ever been sued anyone?

19 A No.

20 Q Everybody been sued by anyone?

21 A No.

22 Q Are you a member of any trade groups or  
23 associations?

24 A No.

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1 Q What did you do to prepare for today's  
2 deposition?

3 A I met briefly with the Sidley Austin team.

4 Q And you're represented by counsel here today,  
5 is that right?

6 A Correct.

7 Q And that counsel is Mr. O'Brien and  
8 Ms. Johnson?

9 A Correct.

10 Q Did you speak with anyone about your  
11 deposition besides your counsel?

12 A An individual at Context, Matt Garms.

13 Q And what did you discuss with Mr. Garms?

14 A The fact that I've been called in to give a  
15 deposition.

16 Q Anything else?

17 A We kept it strictly to that.

18 Q Did you review any documents ahead of your  
19 deposition today?

20 A Yes.

21 Q What did you look at?

22 A Former communications.

23 Q E-mails?

24 A Correct.



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1 Q Anything besides e-mails?

2 A A few marketing follow-up pieces I developed.

3 Q Anything else besides that?

4 A No.

5 Q And do you have any documents in your  
6 possession at home that you reviewed prior to this  
7 deposition?

8 A No.

9 Q When did you start at ContextMedia?

10 A November 2010.

11 Q Do you recall when in November it was? Was  
12 it early, late?

13 A November 11th.

14 Q How did you come to work at ContextMedia?

15 A I was looking for a new opportunity, saw the  
16 listing and applied.

17 Q Where was the listing?

18 A Craigslist, I believe.

19 Q And what were you doing before you went to  
20 Context?

21 A Working for a marketing agency.

22 Q Which one?

23 A Legacy.

24 Q And what were your responsibilities at

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1 Legacy?

2 A Primary contact for a number of our key  
3 accounts.

4 Q Those were corporate accounts?

5 A Correct.

6 Q And were you doing messaging for them, copy,  
7 anything like that?

8 A Messaging, copy, marketing campaign  
9 development and execution

10 Q And how long were you there for?

11 A Three and a half years.

12 Q Have you held other positions in marketing  
13 besides Legacy before you went to Context?

14 A Yes.

15 Q What were those positions?

16 A Marketing project coordinator, Eaton  
17 Corporation.

18 Q Eaton Corporation?

19 A Correct.

20 Q Doing similar stuff?

21 A Mm hmm. Yes.

22 Q Just in house?

23 A Correct.

24 Q Anything else?

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1 A Marketing for Pfizer.

2 Q Any other jobs we haven't covered?

3 A American Medical Association for a short  
4 time.

5 Q Again on the marketing end?

6 A Correct.

7 Q So you came to Context in 2010. What were  
8 you hired to do?

9 A Brand manager of the Rheumatoid Health  
10 Network.

11 Q And what is the Rheumatoid Health Network?

12 A An office patient education system for  
13 rheumatology offices.

14 Q And as brand manager, what were your job  
15 responsibilities?

16 A To understand the space that we were in, to  
17 help develop marketing materials and to help the  
18 sales team develop messages.

19 Q And who did you report to at Context?

20 A Shradha Agarwal.

21 Q And what was her position at the time?

22 A Chief marketing officer.

23 Q Were there other brand managers for RHN when  
24 you started?

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1 A No.

2 Q Were you the first?

3 A In that role, yes.

4 Q In that role?

5 A Mm hmm.

6 Q Were there any other brand managers during  
7 your time at Context?

8 A Yes.

9 Q Who else?

10 A Darcy Hatzold.

11 Q And she was a brand manager for RHN?

12 A No, for the Diabetes Health Network.

13 Q Was she there when you began?

14 A Yes.

15 Q Did you have any involvement in the Diabetes  
16 Health Network?

17 A No.

18 Q You were exclusively RHN?

19 A Correct.

20 Q And that was true for the -- well, let me ask  
21 you this. When did you leave Context?

22 A September 2012.

23 Q So for the nearly two years you were there,  
24 you were strictly RHN?

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1 A For the first year I was there and then  
2 became brand manager over, we consolidated our  
3 services into ContextMedia Health, which I became the  
4 brand manager for.

5 Q So when you consolidated, did you have  
6 oversight or were you responsible for RHN and DHN at  
7 that point?

8 A Yes, but they weren't separate networks any  
9 more. It was more, the programming was tailored  
10 based on the clinic that we were being installed  
11 into.

12 Q So you were, you had one product and you were  
13 tailoring it to the clinic?

14 A Correct.

15 Q And after the consolidation, was Darcy still  
16 there?

17 A For a short period.

18 Q When you joined in November 2010, how many  
19 employees did Context have?

20 A Ten.

21 Q Are you number ten?

22 A Nine.

23 Q And when you joined, did you have any point  
24 of care or out of home experience at that point?

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1 A No.

2 Q So what did you do to learn about the  
3 industry?

4 A For rheumatology, attended the ACR  
5 conference, read a lot about -- signed up for the  
6 different various newsletters, read a lot about  
7 rheumatologists, their pain point, what the different  
8 diseases that they saw, learned a lot about those  
9 different conditions, read as much as I could.

10 Q You said pain points before. What do you  
11 mean by pain point?

12 A Meaning for the doc's office, what are the  
13 things that they struggle with, what are the things  
14 that they deal with that hinders them from giving  
15 best possible care to their patients, keeping their  
16 office open, et cetera.

17 Q When you joined on November 11, 2010, had  
18 ContextMedia launched RHN at that point?

19 A Very shortly prior.

20 Q Do you know how soon prior?

21 A I don't know the exact date.

22 Q Was there a pilot program used to roll out  
23 RHN?

24 A In terms of --

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1 Q Did you launch the network as a pilot, per  
2 se?

3 A I never heard them use the terminology that  
4 it was launched as a pilot.

5 Q When you started, what were you told about  
6 the history of that network of RHN? Do you know when  
7 it was developed?

8 A Again, I was told that it had been started a  
9 couple months prior. I don't know exactly how many  
10 months. Or I don't recall, I should say.

11 Q Do you know how many practices were in the  
12 network when you joined?

13 A I don't recall.

14 Q You were responsible for tracking the number  
15 of practices in the network over time, is that right?

16 A Not necessarily my responsibility. I helped  
17 to track offices against a target list provided to us  
18 by Johnson & Johnson.

19 Q And did you have that list at the outset?

20 A I was not aware of the list at the outset.

21 Q When did you become aware of that Johnson &  
22 Johnson list?

23 A I don't recall an exact date. Possibly  
24 spring.

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1 Q Spring of 2011?

2 A Correct.

3 Q Were you responsible for deciding which  
4 practices were called about RHN?

5 A No.

6 Q Who was responsible for that?

7 A I would say management.

8 Q And by management, do you mean anyone in  
9 particular?

10 A Our senior staff, so Rishi, Shradha, Jim.

11 Q Rishi Shah?

12 A Correct.

13 Q Shradha Agarwal?

14 A Agarwal.

15 Q And Jim Demas?

16 A Correct.

17 Q And who provided you with the Johnson &  
18 Johnson list?

19 A In terms of --

20 Q Who presented it to you and told you you had  
21 to track practices against it?

22 A Within Context?

23 Q Within Context, correct.

24 A Rishi Shah.



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1 Q And did he tell you why?

2 A Yes, because we had to show the growth of the  
3 network against the offices that Johnson & Johnson  
4 was interested in having their Simponi ads played in.

5 Q Was Johnson & Johnson a sponsor from the  
6 outset --

7 A Yes.

8 Q -- of RHN? And RHN played Simponi ads from  
9 the beginning?

10 A Yes.

11 Q When you joined, were there other sponsors  
12 besides Johnson & Johnson --

13 A No.

14 Q -- for RHN? Just Johnson & Johnson. Do you  
15 recall how many practices were on that list?

16 A I do not.

17 Q I did ask you earlier how many practices were  
18 within RHN when you joined. It would be fair to say  
19 it wasn't that many?

20 A Define that many.

21 Q Less than 50?

22 A Yes.

23 Q So RHN was just, really just starting out?

24 A Yes.

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1 Q But you had the loop, Context had the loop  
2 prepared, correct?

3 A From --

4 Q Context had a content loop that it was  
5 sending out to RHN practices and that was ready to  
6 go?

7 A Meaning had they developed one to use for  
8 their current members?

9 Q Yes.

10 A Yes, they did.

11 Q And how did Context go about signing up  
12 practices for RHN when you started?

13 A We had outside sales individuals at Acquirent  
14 who were given the target list of practices from J&J  
15 and they would cold call the offices, reaching out,  
16 asking to speak with them about their patient  
17 education needs and if they were interested in having  
18 a patient education service in their office.

19 Q Was it all cold calling?

20 A Yes. I'm sorry. At the beginning, yes,  
21 until we started attending conferences and doing  
22 marketing activities.

23 Q And you've mentioned conferences before.  
24 Besides conference, what other marketing activities

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1 did you do for the brand?

2 A We would do a fax blast and --

3 Q Fax blast?

4 A Correct. Sorry, I have a cold, so I can't  
5 talk crisp. E-mail campaigns and direct mail.

6 Q And did Acquirent have this J&J list from the  
7 beginning?

8 A The J&J list was inputted into our CRM  
9 system, Quickbase, and we assigned select accounts to  
10 the two sales reps that acquired it.

11 Q So ContextMedia used Quickbase as its  
12 customer relationship management software?

13 A Correct.

14 Q And was that the case when you joined in  
15 2010?

16 A Yes.

17 Q But Context had no in house sales team in  
18 2010?

19 A Not until December.

20 Q And what happened in December?

21 A They hired an in house sales individual.

22 Q And who was that?

23 A Matt Garms.

24 Q And why was Matt Garms hired in

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1 December 2010?

2 A Because they wanted to bring the sales team  
3 in house.

4 Q Instead of using Acquirent?

5 A Correct.

6 Q And had they used Acquirent for DHN before  
7 RHN?

8 A I don't know that answer.

9 Q So Acquirent was using a J&J list from the  
10 beginning to target RHN, potential RHN practices?

11 A Yes.

12 Q But you didn't become familiar with that list  
13 until the spring?

14 A I had not particularly seen the list myself  
15 in terms of outside of Quickbase.

16 Q Got you. So you knew that the list everyone  
17 was operating off of was the J&J list?

18 A (Nodding.)

19 Q Were there other lists besides J&J?

20 A Not to my knowledge.

21 Q Now, who were the main competitors in the  
22 rheumatology, the point of care rheumatology space  
23 when you joined?

24 A Accent Health and Healthy Advice.

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1 Q And were there others?

2 A Health Monitor, Every Well for a short time.

3 And I want to say there was an additional, but I  
4 don't recall the name offhand.

5 Q And when you joined, was ContextMedia  
6 switching out those competitors in RHN offices?

7 A I was not aware if there was any switching  
8 when I joined.

9 Q You don't know if there had been, prior to  
10 your arrival, if Context had switched out any  
11 competitors in any office?

12 A Correct.

13 Q When you joined, did the company have a  
14 policy about switch outs?

15 A Not to my knowledge.

16 Q So you said earlier that when you started,  
17 you kind of read up on the space and educated  
18 yourself about the field. What were your impressions  
19 of Healthy Advice when you started in 2010?

20 MR. O'BRIEN: Object to the form. You can  
21 answer. You can answer.

22 THE WITNESS: Okay.

23 A I thought Accent Health was a superior system  
24 to Healthy Advice in terms of relating the two when I

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1 was looking at the space.

2 BY MR. BERNAY:

3 Q And why was that?

4 A Healthy Advice Systems at the time were  
5 primarily, it wasn't video footage, it wasn't, you  
6 know, segments where individuals are talking and  
7 interacting. It was more silent, slide like  
8 information with light music in the background.

9 Q Are you talking about Accent Health or are  
10 you talking about Healthy Advice?

11 A Healthy Advice.

12 Q And what was Accent Health?

13 A Video footage. So there was segments  
14 interacting, there's round tables with doctors and  
15 patients talking, there was different segments about  
16 either if there was an association giving tips on how  
17 to exercise or healthy eating, things along those  
18 lines.

19 Q And how did you educate yourself about Accent  
20 Health and Healthy Advice when you started?

21 A Reading up on their web sites, going through  
22 and just doing competitive searches online, seeing  
23 what people were saying about them, seeing what they  
24 had been -- what's been said on the news, press

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1 releases, things along those lines, mostly secondary  
2 research.

3 Q So the basis for your opinion was online  
4 research that you did?

5 A Correct.

6 Q Anything else?

7 A No.

8 MR. O'BRIEN: You mean when she first  
9 started?

10 BY MR. BERNAY:

11 Q When you first started, to be clear.

12 A Yes.

13 MR. BERNAY: Thanks, Dick. Yes.

14 Q You said that Johnson & Johnson provided the  
15 ads for RHN. Do you know where ContextMedia acquired  
16 its content for the network?

17 A Yes. When I first started or throughout  
18 my --

19 Q Let's do both.

20 A Okay. When I first started it was, I don't  
21 remember the name of the exact company, but there was  
22 patient education providers that we would lease the  
23 content from. Throughout my time there, I developed  
24 relationships with various associations and worked to

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1 obtain, to utilize, I should say, their video content  
2 in our network.

3 Q And what were those associations?

4 A American College of Rheumatology, American  
5 Heart Association, Arthritis Foundation.

6 Q And did those organizations pay to broadcast  
7 their content on the network?

8 A No.

9 Q As brand manager, were you given goals to  
10 meet?

11 A In terms of --

12 Q You reported to Shradha. Did she give you  
13 any goals in terms of the network, number of  
14 practices, for example, within the network?

15 A Not to me specifically.

16 Q Those goals were not given to you  
17 specifically?

18 A They were company goals that we all worked to  
19 achieve.

20 Q And when you started, what were the company  
21 goals for RHN?

22 A We had to reach a certain growth number. I  
23 don't recall that number at this time.

24 Q And why did you have to reach that growth



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1 number?

2 A Contract terms with J&J.

3 Q Did you ever see the contract with J&J?

4 A No.

5 Q But you were told that this is why we have to  
6 meet this growth figure?

7 A Yes.

8 Q And who told you that?

9 A Jim Demas.

10 Q And do you remember any of those growth  
11 targets over time?

12 A Yes, we had a goal of reaching 300 screens at  
13 a point in November, I'm sorry, in 2011. However, I  
14 don't remember the exact date.

15 Q Did you meet that goal?

16 A Yes.

17 Q Any other goals that you can remember?

18 A Not particular in terms of exact numbers.

19 Q Was reaching a critical mass of practices the  
20 only goal for RHN?

21 A In terms of --

22 Q Company goals.

23 A I would say it was a primary.

24 Q What were the secondary goals?

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1 A Obtaining content so that we had a, we had  
2 robust programming, we had various condition types  
3 that, depending upon the basis of the office, that we  
4 could provide for them.

5 Q Anything else?

6 A Not that I can recall.

7 Q When you joined, was the company having  
8 difficulty attracting practices to the network?

9 A Difficulty in terms of --

10 Q Cold calling and selling it.

11 A I wouldn't say difficulty.

12 Q Was it going slower than expected?

13 A Slower, but more based on the number of  
14 salespeople. They had two salespeople.

15 Q Before you started, to your knowledge, was  
16 RHN placed in 200 physician offices as part of a test  
17 run?

18 A I don't know.

19 Q Don't know? Do you recall a point when RHN  
20 would have hit a number of 200 physician practices,  
21 when that would have happened?

22 A Some point in 2011.

23 Q When you started in November 2010, what were  
24 the key components of the early marketing strategy

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1 for RHN?

2 A Attending --

3 MR. O'BRIEN: Object to the form. You can  
4 answer.

5 A Attending conferences, primarily, fax blasts  
6 and direct mail.

7 BY MR. BERNAY:

8 Q And cold calling?

9 A In terms of marketing activities?

10 Q Right.

11 A That's a sales activity.

12 Q Did you provide copy for the salespeople to  
13 market on?

14 A I provided them talking points to use in  
15 their sales activities.

16 Q When you joined, did you have meetings to  
17 discuss this marketing strategy?

18 A With -- internally?

19 Q Internally.

20 A I had meetings with Shradha.

21 Q And what did you discuss in those meetings?

22 A We discussed what conferences we would want  
23 to attend, we discussed what our direct mail schedule  
24 would be, what type of direct mail campaigns that we

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1 would want to develop.

2 Q Attending conferences, fax blasts, direct  
3 mail, were these new marketing outlets for  
4 ContextMedia?

5 A No.

6 Q They were doing the same thing with DHN?

7 A Correct.

8 Q Did the marketing strategy for RHN change  
9 over the time that you were there?

10 A In terms of --

11 Q Any of the prongs we've discussed.

12 A Change how?

13 Q Did you put more emphasis into one channel  
14 than another, did you find that things weren't  
15 working, so you changed course?

16 A We would course correct as needed. We found  
17 that fax blasts, because of the advent of technology,  
18 was becoming less of an avenue. We utilized trade  
19 advertising and continued to utilize direct mail and  
20 conferences.

21 Q In order to meet its goals for Johnson &  
22 Johnson, would RHN need to take market share from  
23 competitors?

24 A Not necessarily.

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1 Q Why not?

2 A Because the rheumatology space is large and  
3 no one had a particular hold on a vast majority of  
4 that space.

5 Q When you started, did anyone provide you with  
6 information about the space in terms of who the  
7 players were and what percentage of the market they  
8 had?

9 A Shradha provided me with the list of who our  
10 competitors were. I was not given information in  
11 terms of market share per competitor. It was general  
12 discussion regarding the fact that the rheumatology  
13 space was large and that there was a lot of  
14 opportunity.

15 Q And why was there a lot of opportunity?

16 A Because it was a relatively new space.

17 Q And so you knew that RHN had competition in  
18 the rheumatology space from the beginning of your  
19 time at Context?

20 A Yes.

21 Q And did you and Shradha discuss the need to  
22 take market share from competitors?

23 A No.

24 Q Do you recall a time in which ContextMedia

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1 switched out a competitor practice -- strike that.  
2 I'll ask that again. What was the first time that  
3 ContextMedia encountered a competitor and switched  
4 out their equipment?

5 A I don't know the date of when they first  
6 encountered a competitor and switched them out.

7 Q Do you remember that instance?

8 A No, because I can't say if that was before or  
9 after my time.

10 Q I'm going to start here. And I apologize if  
11 this is in small font. To be honest, it just comes  
12 out of our software like that.

13 A No worries. I have good eyesight.

14 MR. BERNAY: I'm sorry, I only have these.

15 MR. O'BRIEN: That's fine. We can share.

16 Are you going to mark it?

17 MR. BERNAY: Yes, let's mark this as  
18 Plaintiff's Exhibit 1.

19 (Documents marked as Plaintiff's Group  
20 Exhibit 1 for identification.)

21 Q So I've given you an e-mail. The top string  
22 is dated December 6, 2010 at 5:19 p.m.

23 A Mm hmm.

24 Q And the Bates number is Context 41720 and the

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1 second page is 41721. Take a minute to look at the  
2 e-mail.

3 A Mm hmm.

4 Q Do you recall this communication?

5 A I recall the form, yes.

6 Q And I may have asked you, but when you joined  
7 the company, was there a protocol in place to switch  
8 out competitors?

9 A Not to my knowledge.

10 Q And does the practice name of a Dr. Margolis  
11 or Margulies ring a bell?

12 A Yes.

13 Q To your knowledge, was he the first Healthy  
14 Advice practice that switched to RHN?

15 A I don't know if he was the first.

16 Q You'll note the subject of this e-mail is  
17 installation authorization, and I'll read the bottom  
18 e-mail from Jim Demas. "Silvia, attached is the  
19 installation authorization form required for those  
20 offices where we are removing a competitor's  
21 system. The information in italics will obviously  
22 vary by office. The attached is based on one of  
23 Dr. Margolies' sign up sheets. Please change  
24 accordingly. I would like to have these in our hands

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1 prior to the work order. Let me know if you have any  
2 questions."

3 Then you respond, "Jim, thanks so much for  
4 putting this together. If you don't mind, I made a  
5 few updates so this looks a bit more formal and can  
6 be used as a template moving forward."

7 why was this document prepared?

8 A It was prepared because Jim was trying to put  
9 a process in place for switching competitive --  
10 switching systems with installing our health  
11 networks.

12 Q And did Jim explain to you why there needed  
13 to be a form?

14 A I don't recall an exact conversation.

15 Q And this switch out form that's on the second  
16 page, this form or its eventual successor became a  
17 requirement, is that right?

18 A Yes.

19 Q So every time you went in and switched out a  
20 competitor, you would have them sign this form?

21 A It was told to the sales team that each time  
22 they spoke to an office who indicated they had a  
23 competitive system that they wanted to remove and  
24 install our system instead, that this form needed to



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1 be completed by the office.

2 Q And why was that?

3 A I don't know all the details behind how this  
4 came to be.

5 Q But this was an important document?

6 A I was --

7 MR. O'BRIEN: Object to the form. You can  
8 answer.

9 A Yes.

10 BY MR. BERNAY:

11 Q Were you involved in the Margolies switch  
12 out?

13 A No.

14 Q Do you recall what you did to this form to  
15 make it more formal?

16 A I put it on letterhead.

17 Q Anything else?

18 A Not that I can particularly recall.

19 Q Do you know if the practice asked for this  
20 form?

21 A I don't know.

22 Q Is it your understanding that this form gave  
23 context the legal right to remove competitor  
24 equipment?

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1 MR. O'BRIEN: Object to the form. She can  
2 answer.

3 A Yes.

4 BY MR. BERNAY:

5 Q And why is that?

6 A Because from my understanding of the  
7 agreements that were in place with the competitive,  
8 or I'm sorry, with the practice, they had the ability  
9 to remove the system after meeting the stipulation  
10 set forth in an agreement.

11 Q All right, let's put this aside for now.  
12 Were there other parts of this switch out protocol  
13 beyond the form itself?

14 A Not that I was involved in.

15 Q But there were other parts?

16 A I don't know specifically what other pieces  
17 occurred.

18 Q Are you, just so I understand your response,  
19 are you saying for this particular practice?

20 A For this particular practice, I don't know  
21 what other processes were set in place to switch out  
22 the system.

23 Q Did there come a point in time when  
24 ContextMedia developed what it called a switch out

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1 package?

2 A Yes.

3 Q And what was that switch out package?

4 A My understanding of it, of what they called a  
5 package, a switch out package was that it contained  
6 the form along with the sign -- this form on the  
7 exhibit we just went through a moment ago along with  
8 a sign up sheet and that the member services team  
9 would work with the competitive company to de-install  
10 the equipment and have it sent back to them.

11 Q So the member services team would work with  
12 the competition to return the equipment?

13 A That was my understanding.

14 Q When Context went into an office where a  
15 competitor was installed, do you recall what, if  
16 anything, practices were telling Context about their  
17 willingness to deal with the competitor equipment  
18 upon installation?

19 A What do you mean?

20 Q Was Context's ability to offer a hassle free  
21 switch out process extremely important to the brand?

22 A I wouldn't say it was extremely important.

23 Q What would you say?

24 A I would say that a practice isn't going to

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1 choose to switch out a competitive system just  
2 because Context said they would make it hassle free.

3 Q But it was an important prong?

4 A No.

5 Q Not important at all? So if Context had, if  
6 a practice -- if Context went to a practice and told  
7 the practice they needed to coordinate with a  
8 competitor to remove equipment, that would be okay?

9 MR. O'BRIEN: Object to the form. You can  
10 answer.

11 A It's dependent upon the practice. You have  
12 practices who switch out monthly because an incentive  
13 is being offered to them. You have practices who are  
14 like okay, not a problem. You have practices who are  
15 like I just don't feel like dealing with it.

16 BY MR. BERNAY:

17 Q In terms of Healthy Advice, did Context tell  
18 current Healthy Advice practices that indicated a  
19 willingness to switch that they had to deal with  
20 Healthy Advice on removal issues?

21 A I don't know that.

22 MR. BERNAY: We'll mark this as No. 2.

23 (Documents marked as Plaintiff's Group  
24 Exhibit 2 for identification.)

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1 Q I'll give you a moment to review this e-mail  
2 chain. And take your time. Just let me know when  
3 you've had a chance to review.

4 A Mm hmm.

5 Q Ready? I don't mean to rush you.

6 A Yes.

7 Q Let's start on page 2, which is the first  
8 e-mail in this string. It's from you to Jaime  
9 Attaway on December 2, 2010. Who is Jaime Attaway?

10 A Jaime Attaway was an individual with  
11 Acquirent.

12 Q And it appears that you had a conversation  
13 that morning with her and she wanted information  
14 about competitors.

15 A Mm hmm.

16 Q So if you go to the third paragraph, you say  
17 "Essentially there are two main competitors to the  
18 RHN. They're Arthritis Health Monitor by Health  
19 Monitor Network and Rheumatology Health Network by  
20 Health Media Network."

21 A Mm hmm.

22 Q Was that your impression in your first month  
23 on the job?

24 A Yes.

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1 Q So Healthy Advice was not a main competitor?

2 A Not according to this e-mail and not so much  
3 as they were in the, more the hospital space and  
4 slowly moving into physician waiting rooms.

5 Q And again you would have -- how would you  
6 have developed your knowledge of these competitors  
7 three weeks into the job?

8 A By visiting their web sites, as noted here.

9 Q And was this the first inquiry that you can  
10 recall from your sales reps about competitors?

11 A I don't recall when the first inquiry would  
12 have been.

13 Q But they were beginning to encounter  
14 competitive systems in the field.

15 MR. O'BRIEN: Did you want her to answer the  
16 question?

17 BY MR. BERNAY:

18 Q Is that right?

19 A I'm sorry. Was there a question with that?

20 Q Yes. Was it your understanding that they  
21 were beginning to encounter competitor networks in  
22 the field?

23 A Yes.

24 Q Okay, you can put that aside. Next document,

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1 we'll mark this as No. 3.

2 (Documents marked as Plaintiff's Group  
3 Exhibit 3 for identification.)

4 Q Again, take a minute to review this e-mail.  
5 I'll ask you about specific parts. Looking at the  
6 top level e-mail, this is an e-mail from you to a  
7 number of people at ContextMedia on December 20,  
8 2010. You were employee number nine, I think you  
9 said before. Is this everyone in the company,  
10 essentially, at the time?

11 A At that time it looks -- no.

12 Q Who's missing?

13 A Sean Alexander.

14 Q And who is Sean?

15 A In admin.

16 Q But apart from Sean, this is everybody else?

17 A Yes.

18 Q And this is a competitive analysis of other  
19 companies in the rheumatology space. Did anyone ask  
20 you to create this?

21 A Yes.

22 Q Who?

23 A It came out of a meeting between myself and  
24 the sales team based on the request to understand

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1 more about the different competitors that were out  
2 there.

3 Q And who was the sales team at the time?

4 A Matt Garms, Jaime Attaway, Julia Heffernan  
5 and Matt Browner.

6 Q And Julia, Matt and Jaime are at Acquirent?

7 A Matt Browner was at Acquirent with Julia and  
8 Jaime, yes.

9 Q And this is the first time that you had  
10 circulated a document like this?

11 A Correct, yes.

12 Q And if you'd turn to the third page, there's  
13 a column E for Healthy Advice. Third page, I'm  
14 sorry, the third page of this --

15 A Fourth page?

16 MR. O'BRIEN: He's counting this as page 1  
17 (indicating).

18 BY MR. BERNAY:

19 Q Counting this as page 1. You've got them as  
20 separate documents. There you go. And this is  
21 information that you had compiled about Healthy  
22 Advice. Again, where did you get this information  
23 from?

24 A From their web site and from marketing



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1 collateral.

2 Q When you say marketing collateral, what do  
3 you mean?

4 A A copy of their -- marketing collateral in  
5 terms of pieces that were garnered at trade shows or  
6 a copy of the agreement, of the agreement that they  
7 use.

8 Q So did Context have a kind of archive of that  
9 type of material?

10 A Yes.

11 Q And they had a copy of Healthy Advice's  
12 agreement with its practices?

13 A Yes.

14 Q Do you know how they acquired that?

15 A No.

16 Q And do you know how they acquired their other  
17 marketing collateral?

18 A Some collateral was sent to us by offices  
19 that we were speaking with. Some collateral was  
20 gained at trade shows.

21 Q When you say gained at trade shows, what do  
22 you mean?

23 A People going around and picking up pieces  
24 from various booths.

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1 Q So here I'm reading off the rows on, I guess  
2 the first page of that piece. But you say that  
3 there's no cost for the system -- that there's no  
4 contract for the system. But you had the contracts,  
5 right?

6 A We had a copy of what we viewed being  
7 agreement. I don't recall exactly the title of the  
8 document.

9 Q So you have an agreement, but what does  
10 contract mean?

11 A Contract to me meant that if there was  
12 renewal terms, if there was a cost for service, if  
13 there was a penalty if the -- if certain terms  
14 weren't met.

15 Q So there's a cancellation policy, is that  
16 right, next row down?

17 A Yes.

18 Q And it's after six months' usage, you must  
19 provide 30 days notice, written notice to Healthy  
20 Advice?

21 A Mm hmm.

22 Q So those were -- that was a minimum term,  
23 correct?

24 A That's the stipulation, mm hmm.

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1 Q But that wasn't enough to make it a contract?

2 A When I say term, I am referring to renewal  
3 terms. For instance, if you look at Accent Health,  
4 they talk about that the contract renews  
5 automatically after X number of days, they must  
6 provide us notice. If notice is provided outside,  
7 all those different types of things. If there's a  
8 fee charged if you choose to end the system  
9 beforehand, you're going to be charged X amount.

10 Q And in the next row down you say 30 minute  
11 slide format loop includes quizzes, facts and trivia,  
12 no video, uses soft sounds. Again, was there a piece  
13 of marketing material that you recall in which you  
14 learned there was a 30 minute slide loop?

15 A Between reading their web site is where I  
16 gained the majority of this information.

17 Q And at the bottom you see that there's a  
18 notation that 70 percent of programming loop is  
19 content and 30 percent are sponsor messages, which  
20 equals about nine minutes per 30. And again you  
21 would have received that, you would have learned that  
22 from marketing materials?

23 A Correct.

24 Q And you knew no differently at the time?

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1 A No.

2 Q All right, put that aside. I'll mark this as  
3 Exhibit 4.

4 (Documents marked as Plaintiff's Group  
5 Exhibit 4 for identification.)

6 Q Have a look at this e-mail. As you're having  
7 a look, I'm going to ask if you recall this physician  
8 Veena Nayak.

9 A I recall the name.

10 Q Do you recall the circumstances in which she  
11 came to RHN?

12 A No.

13 Q At this point in January 2011, is there a  
14 switch out package in place at ContextMedia?

15 A I don't recall if there was a formal process  
16 developed at that point.

17 Q If you look at the top e-mail on the first  
18 page, this is from Jaime Attaway. She writes,  
19 "Thanks for your message. I've responded to  
20 Dr. Nayak and will call her later today per her  
21 request. Is there a written agreement regarding  
22 switching from another network to RHN? Some offices  
23 want details on what the process entails before they  
24 make the decision to switch." Then she asks, "Can

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1 you send some information?" Do you recall what you  
2 would have sent her?

3 A I would have sent her the installation  
4 agreement form that we referenced in Exhibit 1.

5 Q And do you recall fielding inquiries from  
6 offices about how this was going to work, how they  
7 were going to remove the previous competitor's  
8 equipment?

9 A Fielding in terms of --

10 Q Fielding -- Jaime is reporting that some  
11 offices want details. Do you recall other instances  
12 where you had to send information about the switch  
13 out process?

14 A I'm sorry, I want to make sure I'm clear. So  
15 in terms of me directly handling or in terms of  
16 Context fielding?

17 Q Both.

18 A My involvement with member services was  
19 minimal. Most of that was handled by Silvia at the  
20 time. I do recall that offices would have questions  
21 and the sales team and the member services team would  
22 work with them to answer those questions.

23 Q But you would agree that offices were  
24 concerned about how this would be handled?

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1 A I would say that they have questions.

2 MR. O'BRIEN: We've been going about an hour.  
3 whenever is convenient, if you want to take a  
4 short break.

5 MR. BERNAY: If you want to take a break now,  
6 that's fine, or we can keep going. I'll let the  
7 witness decide.

8 MR. O'BRIEN: Are you okay?

9 THE WITNESS: I'm fine for now. Maybe  
10 another like 20 minutes or so and then a break  
11 would be lovely.

12 BY MR. BERNAY:

13 Q If you need more water, we can take a minute,  
14 too. I asked you earlier about that form, the  
15 authorization form. To your knowledge, and I don't  
16 want to know what was said, but to your knowledge was  
17 that form run by an attorney before it was sent to  
18 the field?

19 A It was my understanding that it was.

20 Q And we've talked earlier about a switch out  
21 package. Do you know who was responsible for  
22 creating that switch out package?

23 A I believe senior management was responsible  
24 for confirming those terms and that process.

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1 Q The terms and process -- so you're saying the  
2 terms of the form and the switch out process?

3 A Correct.

4 Q And again by senior management you mean  
5 Rishi, Shradha and Jim?

6 A Correct.

7 Q All right, I'm going to mark the following  
8 as 5.

9 (Documents marked as Plaintiff's Group  
10 Exhibit 5 for identification.)

11 Q So I've given you -- and you don't have to  
12 read the entire members outreach manual.

13 A I remember it.

14 MR. O'BRIEN: In fairness, you can read  
15 whatever you want.

16 BY MR. BERNAY:

17 Q Right. But this is not a reading test. What  
18 I've handed you, there's a cover e-mail from June 10,  
19 2011 from you. And I'll ask you, are you responsible  
20 for drafting this manual?

21 A Yes.

22 Q For all the content inside?

23 A I worked with various members of the  
24 organization to gather the content and print and then

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1 I put it into one place.

2 Q And who did you work with?

3 A I worked with Matt Garms on the member  
4 outreach side, Silvia Velazquez on member services  
5 and Travis Kemp in the operations team.

6 Q And that was just to gather material for  
7 each -- from each of their different departments?

8 A Correct, to make sure that processes were  
9 outlined in here, the information was accurate. I  
10 covered off on everything or anything that they would  
11 want the individual sales individuals to know.

12 Q And why was this document drafted?

13 A The sales team was growing. We were hiring  
14 SEC's, we had two individuals coming in and I was  
15 trying to put together a formal on boarding  
16 processing for new sales team members.

17 Q And who were these individuals that were  
18 coming in?

19 A I don't remember exactly who. We had a  
20 number of people starting within a short period and I  
21 don't exactly remember who was when.

22 Q These were all internal folks?

23 A Correct, yes.

24 Q Do you recall when ContextMedia ended its



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1 relationship with Acquirent?

2 A I don't recall an exact date.

3 Q All right, if we turn to what's -- it's  
4 page 14 of this manual. It's got a production number  
5 of 6471. I want to ask you just a couple questions  
6 about this page. So this is kind of a one pager  
7 about RHN. And it says at the top, "Launched in  
8 2010, RHN is ContextMedia's third waiting room TV  
9 network." Was there another one besides DHN and RHN?

10 A There was the Heart Health Network that was a  
11 pilot program that they put on hold for the RHN.

12 Q So it was shelved. Do you know why it was  
13 shelved?

14 A Sponsorship opportunity.

15 Q What do you mean by that?

16 A Meaning Simponi had come to ContextMedia  
17 wanting to develop a rheumatology network, and so  
18 that became a priority.

19 Q Do you know when Simponi came to  
20 ContextMedia?

21 A I do not know that answer.

22 Q And I want to just ask a particular question  
23 on -- well, I guess two. If you look under, it's the  
24 last sentence under the focus heading. For those

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1 offices that -- it says, "For those offices concerned  
2 about sound, a silent RHN loop is also available."

3 was that true from the beginning when you started?

4 A No.

5 Q When did that silent loop come into being?

6 A I don't recall an exact date.

7 Q And do you know why it came into being?

8 A Primarily because you have the office  
9 managers where the TV was sitting near and didn't  
10 want to listen to the same thing all day long.

11 Q So you received feedback that certain  
12 practice managers wanted the silent loop?

13 A Correct.

14 Q And then under sponsors, the last sentence,  
15 "Our doctor's choice guarantee allows the doctor to  
16 remove any specific message from his or her loop at  
17 any time." Are you aware if practices communicated  
18 that they did not want certain content in the loop?

19 A Yes.

20 Q And who handled those requests?

21 A I don't recall exactly.

22 Q Would that have been someone from the member  
23 services side?

24 A Member services would field it.

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1 Q And do you know if those requests were  
2 honored?

3 A I don't know.

4 Q And turning to 15 and 16, this is essentially  
5 the, looks like an update to a competitor information  
6 chart that we looked at earlier.

7 A Mm hmm.

8 Q And again this is June 2011. Are you using  
9 the same sources here that you would have used in  
10 December of 2010?

11 A Yes, same type of sources. Obviously web  
12 sites and marketing collateral is updated.

13 Q And every member outreach executive from  
14 June 2011 on would have received this manual?

15 A Yes.

16 Q And told to review this manual as part of  
17 their on boarding?

18 A Told to review and it was reviewed with them.

19 Q I want to look at page 22. And this is the  
20 sign up form for RHN, right?

21 A Mm hmm.

22 Q Did you draft this?

23 A I did.

24 Q And before you came on board, do you know

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1 what they used as a sign up form?

2 A Something similar.

3 Q But you drafted this particular version?

4 A Yes.

5 Q And there's an agreement at bottom. It's  
6 kind of bracketed as D. Every practice that signed  
7 up would have completed this form, is that right?

8 A Yes.

9 Q Looking at the agreement side of it, are  
10 these meant to be check boxes on the left margin here  
11 next to each sentence?

12 A Yes.

13 Q Okay. So the practice was to check off each  
14 of these, I guess clauses as part of the agreement,  
15 as part of filling in the agreement?

16 A As part of filling in the sign up form, yes.

17 Q And did practices do that?

18 A Yes.

19 Q Were the sign up forms handled by member  
20 services or member outreach?

21 A Member outreach provided the sign up form to  
22 a prospective practice. The practice then sent it  
23 back in to member outreach. The sale was approved in  
24 terms of making sure they met the demographics to be

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1 an RHN member as shown in B and then it was provided  
2 to member services to follow up with and then begin  
3 the installation process.

4 Q Got you. And did Context require that the  
5 practice agree to every provision under the agreement  
6 section?

7 A For the most part, yes. There was certain,  
8 for instance, electronic media in the waiting room,  
9 there were certain instances if there was a cable  
10 television, that was -- they would agree to it.

11 Q Were there any other exceptions made?

12 A I don't know.

13 Q And when you drafted this, did anyone approve  
14 it at ContextMedia?

15 A Yes.

16 Q And who did that?

17 A Shradha Agarwal.

18 Q And did you use -- you said this is a  
19 different version. Did you use any other documents  
20 in drafting this document as reference?

21 A Yes.

22 Q What were those documents?

23 A The Diabetes Health Network sign up form.

24 Q So the same form for a sister network?

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1 A Correct.

2 Q Anything else?

3 A Not that I recall.

4 Q What were the demographics that qualified a  
5 practice for RHN?

6 A They had to see a certain percentage of  
7 rheumatology patients.

8 Q Per week what the measurement is?

9 A I don't recall if it was exactly per week.

10 Q And if you look, again going back to the  
11 agreement section, if you look at the last sentence,  
12 "I agree to not remove, relocate, modify, alter or  
13 disrupt any of the RHN system components without  
14 prior consent from the Rheumatoid Health Network."  
15 Did you put that clause in there?

16 A I did.

17 Q And why did you put that clause in there?

18 A It was a clause that was included on the  
19 Diabetes Health Network form.

20 Q And so you wanted the same to apply to RHN  
21 and the RHN practices?

22 A Correct. We wanted the forms to mirror each  
23 other.

24 Q When a practice signed up, did you receive a

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1 copy of the contract?

2 A Yes. In the beginning, yes.

3 Q In the beginning. And that stopped at a  
4 certain point?

5 A For awhile I would receive the form, make  
6 sure the doctor -- I would receive the form from the  
7 sales team, make sure that everything was completed,  
8 make sure that they met the percentage, patient  
9 percentage piece. And if those things were correct,  
10 I'd pass it on to member services team. Once my role  
11 started changing, that went over to Matt Garms.

12 Q And when did your role start changing?

13 A When we started to transition to ContextMedia  
14 Health.

15 Q So about a year in?

16 A Correct. A little more than a year.

17 Q And who provided you the required  
18 demographics?

19 A Rishi Shah and Shradha Agarwal.

20 Q And were those, do you know if those  
21 demographics came from J&J?

22 A I don't know that.

23 Q If you'd turn to 27 and 28, and I know it's  
24 hard to read, but this is essentially another version

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1 of the installation authorization that we looked at  
2 earlier.

3 A Mm hmm.

4 Q And this is a section entitled competitor  
5 switch out process. If you turn to page 28, you'll  
6 notice that there's a division for Accent Health  
7 switch outs and non Accent Health switch outs. Why  
8 is there that dichotomy?

9 A It's my understanding that Rishi and the head  
10 of Accent Health developed a process between the two  
11 companies for switch out systems.

12 Q And that was in place in June 2011?

13 A I don't know the exact day it started.

14 Q And so if I'm reading this right, the  
15 practice was required to work through Accent Health  
16 to schedule removal, but that wasn't required if the  
17 company was a competitor apart from Accent?

18 A That is what Rishi and Accent Health agreed  
19 to.

20 Q And was there a point when that changed?

21 A I don't know.

22 Q Did anyone ever tell you why Accent Health  
23 was treated differently?

24 A No.



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1 MR. BERNAY: well, we have been going for  
2 about almost an hour 20 minutes, so let's take a  
3 break.

4 THE WITNESS: Okay.

5 (A recess was taken, after which the  
6 following proceedings were had:)

7 BY MR. BERNAY:

8 Q Before we broke, we were talking about  
9 drafting the RHN form. And I meant to ask you, did  
10 you draft the DHN form as well?

11 A No.

12 Q Who did that?

13 A I don't know.

14 Q You spoke about taking market share from  
15 competitors of Shradha. Did you discuss that with  
16 anyone else at ContextMedia?

17 MR. O'BRIEN: I'll object to the form. You  
18 can answer.

19 A Actually, I didn't say that we talked about  
20 taking market share from competitors. We talked  
21 about the space, that there was opportunity in the  
22 space.

23 BY MR. BERNAY:

24 Q Did you talk about there being opportunity in

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1 the space with anyone else at ContextMedia besides  
2 Shradha?

3 A Yes.

4 Q Who was that?

5 A Rishi Shah, Matt Garms.

6 Q What did you discuss with Rishi?

7 A We -- more group meetings with all four of us  
8 involved that we just mentioned and discussing where  
9 we were at in terms of sales in the pipeline and the  
10 fact that it was a new, a relatively young space that  
11 these systems were in.

12 Q So Rishi, Shradha, Matt Garms never discussed  
13 the need to take some of that space from competitors?

14 A I don't know that answer.

15 Q You don't know or you don't remember?

16 A I don't know if they discussed it separately  
17 from me.

18 Q But you don't recall any conversations to  
19 that end?

20 A There was no specific conversation stating  
21 that in order for us to gain -- to hit our numbers,  
22 we had to go after specific competitors.

23 Q Beyond Simponi, were there other brands that  
24 came onto the RHN network during your time there?

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1 A Not that I recall.

2 Q It was just Simponi for those two years?

3 A For the RHN, yes, I believe.

4 Q During your time there, did you use any other  
5 lists besides the J&J list?

6 A I don't know. I wasn't involved in the  
7 importing of lists into the CRF.

8 Q Who would have done that?

9 A That would have been handled by Rishi Shah  
10 and Matt Coppola.

11 Q And you did see this J&J list at one point.  
12 Did that list indicate if a practice had a competitor  
13 system in their office?

14 A No.

15 Q Are you aware if, when these sales calls were  
16 made, if the member outreach executives knew there to  
17 be a competitor system in an office?

18 A Only if the practice told them that they had  
19 a system.

20 Q So prior to a cold call, there was no  
21 knowledge?

22 A Correct.

23 Q So you created -- and before I go on, how  
24 were these lists used from J&J?

Jeana Loewe March 5, 2014

1 A In terms of --

2 Q The sales team called exclusively off the J&J  
3 list during this entire time?

4 A I don't know. Going back to your question a  
5 few moments ago, I don't know how the lists were  
6 imported into Quickbase.

7 Q Did you create competitive analysis sheets  
8 contrasting Context and Healthy Advice?

9 A Yes.

10 Q And I'm going to give you, I'm going to mark  
11 as exhibit, we'll do this as Exhibit 6 and 7.

12 (Documents marked as Plaintiff's Exhibits 6  
13 and 7 for identification.)

14 MR. BERNAY: Dick, what's the Bates number on  
15 that page I just gave you?

16 MR. O'BRIEN: This one (indicating)?

17 MR. BERNAY: Yes.

18 MR. O'BRIEN: 4778.

19 MR. BERNAY: Sorry, I've got two different  
20 4778.

21 Q Did I give you 4771? Jeana, what's that  
22 number there?

23 A 4778 and 4771.

24 Q okay. So is this an example of the

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1 comparison pieces that you would send out from time  
2 to time?

3 A This is an example of what I would provide to  
4 the sales team, yes.

5 Q And what was the purpose of this document?

6 A The purpose of the document was to provide  
7 the sales team with some background information  
8 regarding the ContextMedia health system versus  
9 competitive systems for offices who wanted to know,  
10 to contrast and compare the two.

11 Q And these were updated frequently, is that  
12 right?

13 A Not necessarily frequently.

14 Q And were these mailed to offices, e-mailed to  
15 offices?

16 A This would have been provided by the sales  
17 team via e-mail.

18 Q And do you recall when you first started  
19 circulating something like this?

20 A I don't.

21 Q But it was a shorthand for the sales team to  
22 sell on, basically?

23 A Yes.

24 Q And you did these for other competitors

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1 besides Healthy Advice, is that right?

2 A Yes.

3 Q I'm going to show you a similar document.

4 we'll mark this as 8.

5 (Documents marked as Plaintiff's Group

6 Exhibit 8 for identification.)

7 Q Take a look at this e-mail.

8 A Mm hmm.

9 Q Do you recall circulating these documents and  
10 this chain?

11 A I recall the document. I don't recall the  
12 particular chain without reading this e-mail.

13 Q Take a quick look.

14 A Okay.

15 Q If you see in the middle e-mail, this is page  
16 number 4228, you say, "Kyle, please hold on using the  
17 revised Healthy Advice. As I'm continuing to  
18 research other competitors, there were a few other  
19 differentiators I would like to include in this one.  
20 I'll follow up with revise shortly." Do you recall  
21 what revision that would have been and what  
22 occasioned that revision?

23 A I do not.

24 Q Again, what sources are you using to

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1 construct this document?

2 A The web site and marketing materials, same  
3 sources.

4 Q So you monitored Healthy Advice's web site  
5 fairly frequently?

6 A Mm hmm. Yes.

7 Q Would you say once a week?

8 A Less frequently than that.

9 Q Once a month?

10 A I don't recall how frequently.

11 Q What else did you do to monitor Healthy  
12 Advice online? Did you have any Google alert set for  
13 Healthy Advice or similar mechanisms?

14 A I had Google alerts set for Healthy Advice as  
15 well as a dashboard for any social media.

16 Q So when you say dashboard, you mean like for  
17 Twitter, for Facebook?

18 A Correct.

19 Q So you could aggregate all that material?  
20 And was that for Healthy Advice and other competitors  
21 as well?

22 A Yes, for our competitors as well as for  
23 Context.

24 Q Were you responsible for Context's social

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1 media output?

2 A No, we were not using social media at the  
3 time.

4 Q Through 2012?

5 A Through my time in 2012.

6 Q And you say that on a company-wide basis?

7 A No, for the Rheumatoid Health Network.

8 Q Was it different for DHN?

9 A Yes.

10 Q Was there a point in time when you became  
11 aware that some of the member outreach executives  
12 were making misrepresentations to practices?

13 A Yes.

14 Q And when do you recall, when was that?

15 A I don't recall a date.

16 Q And do you recall what the misrepresentations  
17 were?

18 A Not in particular. I just know there were  
19 instances.

20 Q There were instances. And how did you learn  
21 of those instances?

22 A Either through over hearing a sales call,  
23 through being told by Matt Garms or through receiving  
24 a note from the sales team them self, the sales



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1 individuals.

2 Q So what did you overhear on sales calls?

3 A I don't recall particular verbiage.

4 Q But it was something that struck you as  
5 incorrect?

6 A It would be something worded not in the way  
7 that I would want them to say it.

8 Q Did you work frequently with the outreach  
9 executives on messaging?

10 A Yes.

11 Q And what did you do to make sure that they  
12 were staying on message?

13 A I left that -- the responsibility of making  
14 sure they were on message was Matt Garms. I provided  
15 the sales team with e-mail templates and talking  
16 points. We would do lunch and learns to talk through  
17 concerns that they had and we would have a weekly  
18 meeting to talk about updates to marketing  
19 activities, updates to sales goals, hurdles that they  
20 encountered that they wanted to talk through, success  
21 stories, et cetera.

22 Q Would you ever listen in on phone calls?

23 A I did not.

24 Q And how did you overhear phone conversations?

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1 A We are a small office.

2 Q You were a ten person office. Were you  
3 always in the same space from 2010 through 2012?

4 A Yes.

5 Q I can imagine. Were the sales folks in  
6 cubicles?

7 A Yes.

8 Q And were you in a cubicle as well?

9 A Yes.

10 Q And were you located near the salespeople?

11 A Yes.

12 Q Did you hear them every day?

13 A Yes.

14 Q Could you concentrate?

15 A I could.

16 Q So when you heard something that, you know,  
17 raised an alarm, did you say something to anyone?

18 A Yes.

19 Q Who did you talk to?

20 A I would speak immediately to the individual,  
21 I would make sure that Matt Garms was involved and,  
22 if necessary, I would ladder up to Jim and Rishi.

23 Q And again, you don't remember what was said  
24 that kind of set you off?

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1 A Not in exact words.

2 Q And do you recall who you spoke to about  
3 misrepresentations?

4 MR. O'BRIEN: I think she's answered that,  
5 but go ahead.

6 A In terms of who --

7 BY MR. BERNAY:

8 Q Specific individuals.

9 A On the sales team or within --

10 Q On the sales team, sorry. Let's be clear.  
11 Thanks.

12 A Pat Cavanna, Brok Vandersteen, Jordan Zmick  
13 are three that I know for sure that I've spoken to,  
14 and Deven Tatum.

15 Q And did you report any of those individuals  
16 up the ladder?

17 A I did.

18 Q Who?

19 A Pat Cavanna.

20 Q And why did you report --

21 A And Jordan Zmick, actually.

22 Q And why did you do that?

23 A Because I wanted more help from Matt to make  
24 sure that the team is utilizing the talking points

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1 that are provided to them and the materials provided  
2 to them.

3 Q And do you recall, when you -- so when you  
4 say reported up, would you talk to Matt?

5 A Yes.

6 Q Did you ever go to Rishi or Jim over concerns  
7 about what was being said?

8 A I don't recall an exact time.

9 Q But you did?

10 A Yes.

11 Q And what did -- well, let's start with Rishi.  
12 what did Rishi say in response?

13 A He would -- actually, I think I can give an  
14 example of him. There were times in terms of using  
15 an incentive, in terms of we would -- there was a  
16 point where we would offer a gift card. We had X  
17 number of gift cards available to close a sale. Pat  
18 was definitely an individual who would lean on it  
19 more and I would speak to Rishi and Matt that his  
20 sales skills need to be honed better versus relying  
21 on a gift card.

22 Q Do you recall when that was?

23 A I don't.

24 Q Any others in terms of talking to Rishi about

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1 particular individuals?

2 A In terms of overhearing like their sales  
3 calls?

4 Q Mm hmm.

5 A Not that I remember exactly.

6 Q And you said you spoke to Jim as well?

7 A Jim would be involved in the conversation.

8 Q Did you ever go to Jim without Rishi in the  
9 room to discuss concerns you had?

10 A Yes.

11 Q And do you recall what the reason was?

12 A To be honest, more that the sales team was  
13 driving me nuts, not regarding a particular --

14 Q Why was the sales team driving you nuts?

15 A Just their, mostly in terms of calls they  
16 were making, screwing around in the office. Number  
17 of calls, I should say.

18 Q Number of calls?

19 A Yes.

20 Q Meaning like they weren't making as many  
21 calls?

22 A They could have been more productive.

23 Q Would you say maturity issues?

24 A Yes. It is a young sales team.

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1 Q And what did Jim say he would do?

2 A He would reiterate the need for hitting a  
3 certain number of calls and to act in a professional  
4 manner within the office.

5 Q And he'd say that directly to the sales team  
6 or --

7 A Yes.

8 Q Or through Matt?

9 A He would say it directly to them.

10 Q And what did Rishi say about the concerns you  
11 raised?

12 A He would speak with the particular individual  
13 as well.

14 Q And you said you would get notes from the  
15 sales team as well about misrepresentations that were  
16 being made?

17 A No, in terms of when the sales team would  
18 send me, for instance, the sale, like for instance,  
19 if they had a sign up form that came in, not that  
20 misrepresentations were being made but that they were  
21 using a gift card when there wasn't one for them to  
22 use.

23 Q Not every practice merited a gift card?

24 A Correct.

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1 Q What practices merited a gift card? What was  
2 the criteria?

3 A It depended on if a marketing campaign was  
4 being run.

5 Q So there were periods where gift cards were  
6 offered and there were periods where no gift cards  
7 were offered --

8 A Yes.

9 Q -- during your time? And the purpose of  
10 offering the gift cart was what?

11 A An incentive if it was an office who wasn't  
12 quite sure, they're like, oh, we have a lot going on,  
13 we'll deal, you know, come back in a month, we'll  
14 deal with it. They would use it to close the sale.  
15 And the gift card was meant to, for instance, buy  
16 lunch for the office.

17 Q And you also said that Matt Garms came to you  
18 with concerns over things that were being said?

19 A He would notify me if he overheard something  
20 being said not in the right way, just to give me a  
21 heads up.

22 Q And again, do you recall what those were?

23 A I don't recall.

24 MR. BERNAY: I'm going to mark this as 9.

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1 (Document marked as Plaintiff's Exhibit 9 for  
2 identification.)

3 Q Just take a minute to familiarize yourself  
4 with this e-mail. And you'll see that this is an  
5 e-mail from Shradha to the, I guess sales and  
6 marketing team on July 26, 2011 in which she writes,  
7 "I just want to clarify some of the phrasing. We do  
8 not have an agreement from Healthy Advice to remove  
9 them but do have a hassle free switch package to  
10 offer which several facilities have taken advantage  
11 of." Do you recall outreach executives telling  
12 practices that they had, there was an agreement  
13 between ContextMedia and Healthy Advice?

14 A I don't know a specific incident.

15 Q Were you aware that that was being said?

16 A I had heard that the word agreement was used.  
17 I don't recall if it was used in regards to Healthy  
18 Advice.

19 Q But that someone had said there was an  
20 agreement between ContextMedia and a competitor?

21 A Yes.

22 Q And she concludes the e-mail by saying,  
23 "Let's continue to take them down fast." Was there a  
24 particular marketing campaign directed to Healthy



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1 Advice at that time?

2 A There was a competitive campaign that was  
3 done in the first half of 2011 that was geared at  
4 three competitors, not particularly Healthy Advice.

5 Q Who were those competitors?

6 A I don't recall offhand without seeing the  
7 piece.

8 Q So this was a marketing, you're saying this  
9 was a marketing piece that you put together?

10 A Myself and Shradha, yes.

11 Q And that was part of a campaign?

12 A Yes.

13 Q And the aim of that campaign was to switch  
14 out those practices from their competitors into  
15 ContextMedia?

16 A The aim of the campaign was to, because it  
17 wasn't to just competitive practices, or practices  
18 with competitors in them. The aim of the campaign  
19 was to educate the prospective members on the various  
20 systems that were in the space.

21 Q But there were three competitors in  
22 particular that were identified?

23 A I believe so.

24 Q And I'm going to give you what I'll mark as

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1 10.

2 (Document marked as Plaintiff's Exhibit 10  
3 for identification.)

4 Q Take a minute to look at this e-mail. Were  
5 there other times when you became aware via the sales  
6 staff of misunderstandings or misrepresentations that  
7 were being made?

8 A I'm sorry?

9 Q Were there other times when you became aware  
10 of misrepresentations being made?

11 A In terms of beyond this e-mail? I'm not sure  
12 what you're asking.

13 Q Including that e-mail.

14 A I'm sorry, I --

15 Q I'll ask the question a different way. Don't  
16 worry about it. Well, let's look at the e-mail  
17 itself. Do you recall this communication?

18 A Seeing it in front of me, yes.

19 Q And it looks like this is a string that  
20 starts with Brok Vandersteen and goes through Pat  
21 Cavanna. And he states to the group that Healthy  
22 Advice has 17 minutes of content, the rest are ads in  
23 a 30 minute loop. And then you write back and  
24 correct him, is that right?

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1 A Yes.

2 Q And why did you write back and correct him?

3 A Because the information that he had provided  
4 in his response was not accurate, to my knowledge.

5 Q And then he writes back and says, "Jeana is  
6 right, nine minutes of ads." And did you do anything  
7 to make sure that he was -- that the sales team was  
8 sticking to the information that had been in your --

9 (Whereupon a brief interruption occurred.)

10 A I'm sorry. Can you repeat the question?

11 (Question read.)

12 Q -- that had been in your comparison sheets?

13 A Yes, I would continue, any time I got wind of  
14 anything like this, I would get up and go over to  
15 their desk, talk to them, reiterate why it's  
16 important that we use only information that we can  
17 support, and again something we would talk about in  
18 our weekly meetings as well, too.

19 Q And if we look at -- we'll mark this as  
20 No. 11.

21 (Documents marked as Plaintiff's Group  
22 Exhibit 11 for identification.)

23 Q And this is an e-mail from Brok Vandersteen  
24 saying just thanks for clarifying, is that right?

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1 A (Nodding.)

2 Q So the sales team got the message?

3 A I would say so from their responses.

4 MR. BERNAY: I'm going to mark the following  
5 as Exhibit 12.

6 (Document marked as Plaintiff's Exhibit 12  
7 for identification.)

8 Q Take a minute to look at this e-mail. And if  
9 you look at this, I'll just start at the beginning,  
10 this is an e-mail from Brok Vandersteen a day later,  
11 March 28th in which he says to, I guess a practice  
12 contact, "Hi, Debbie. I can't stress enough how much  
13 better our network is than the Healthy Advice TV you  
14 have. You have a 30 minute PowerPoint slide with  
15 general information right now and half of it is  
16 advertising." So is that statement incorrect?

17 A To my knowledge, yes.

18 Q And reading on it says, if you read at the  
19 bottom, "I'll send you a \$50 American Express gift  
20 card that you can use for anything you want. All I  
21 need is two forms, not contractual in any way."  
22 Again, do you understand what he means by not  
23 contractual in any way?

24 A I do not understand what he means with that.

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1 Q And is it concerning to you that  
2 Mr. Vandersteen is basically repeating misinformation  
3 a day after you had sent that e-mail?

4 A Yes.

5 Q And were you aware that these  
6 misrepresentations were continuing?

7 A No, not a day later.

8 Q And besides -- I think you said earlier that  
9 you went and you talked to the sales team to make  
10 sure they got the message. Beyond that, in terms of  
11 this particular e-mail, can you recall doing anything  
12 else to make sure that these statements were not  
13 being made?

14 A Beyond reiterating and, you know, talking  
15 about the importance of making sure we use the right  
16 information, hearing senior management talk to them  
17 about how it's so important to use the right  
18 information, Matt talking to them, I don't recall  
19 beside -- beyond that.

20 Q All right, I'm going to show you now what  
21 I've marked as Exhibit 13.

22 (Documents marked as Plaintiff's Group  
23 Exhibit 13 for identification.)

24 Q This is an e-mail from Jim Demas to you on

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1 July 13, 2012. Just take a minute to look at the  
2 e-mail. And do you recall, if you read in the middle  
3 of this first page, this is an e-mail from you, I  
4 guess, to the member outreach team and it says,  
5 "Hello, team. I just spoke to" -- I guess RS is  
6 Rishi Shah?

7 A Yes.

8 Q -- "about this. And to reinforce with each  
9 of you, we should by no way indicate that we have an  
10 arrangement with or permission from Healthy Advice to  
11 remove their equipment. What we do, however, is  
12 offer the practice an opportunity to decide if they  
13 want to switch to a different and albeit better  
14 patient education system." So do you remember what  
15 precipitated this e-mail?

16 A Reading through the chain, it appears as  
17 though one of the member outreach executives, Brok  
18 forwarded a letter that was sent to him from one of  
19 his clinics.

20 Q Do you recall this being a letter that  
21 Healthy Advice sent to its practices?

22 A I don't recall the circumstances beyond  
23 reading what is written right here.

24 Q And again it was your understanding that

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1 these represations -- representations to the effect  
2 that there was some kind of permission or  
3 relationship between Context and Healthy Advice were  
4 being made at the time?

5 MR. O'BRIEN: Object to the form. You can  
6 answer.

7 A I'm sorry, can you -- that stutter threw me  
8 off a little.

9 BY MR. BERNAY:

10 Q You say you want to reinforce with the  
11 members that there's -- that Context should in no way  
12 indicate that they have an arrangement or permission  
13 from Healthy Advice to remove equipment.

14 A Mm hmm.

15 Q And I take reinforce to mean that this  
16 warning had been made before. My question is, if you  
17 recall, were you aware of those misstatements  
18 happening around that time?

19 A I do not recall offhand if there was -- if  
20 there were statements continuing to happen around  
21 this time period.

22 Q Are you aware if anyone faced reprimand or  
23 discipline because of statements like this?

24 A I'm sorry?

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1 Q Did anyone --

2 A Oh, face reprimands, got it.

3 Q Face reprimand or discipline because of  
4 statements like this or the others we discussed this  
5 morning?

6 A Reprimand in terms of --

7 Q Could be, I don't know, could be any one of a  
8 number of things. Would they receive a letter, was  
9 there, you know, a note made to the file?

10 A Got you. I know that if an instance  
11 occurred, Rishi spoke to the team as individuals.  
12 However, I do not know if additional measures such as  
13 notes in files, et cetera, were taken.

14 Q And were you concerned at the amount of, I  
15 guess this type of language from the sales team since  
16 you could overhear them and you were getting these  
17 reports about things that were being said to  
18 practices?

19 A Concern that this would be said, yes.  
20 Concern in terms of amount, I would not say that it  
21 was a frequent basis, at least in my knowledge.

22 Q Were you concerned that what you were hearing  
23 would damage the brand with practices?

24 A Yes.



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1 Q You mentioned earlier that one of the things  
2 that you did was these lunch and learns. What was  
3 the purpose of a lunch and learn?

4 A Purpose would be to get everyone together  
5 away from their desk during the lunch period and go  
6 over, educate them on a particular topic. The  
7 Portable Care Act was one of the topics, specific  
8 rheumatology commissions were topics, consolidating  
9 the two services into ContextMedia Health was a  
10 topic.

11 Q How often were these held?

12 A I don't recall the frequency. Not very  
13 frequent.

14 Q Were there ones held, would they be held on  
15 single topics or would they cover multiple issues?

16 A Typically a single topic. It was only during  
17 that lunch time period.

18 Q Were there lunch and learns held about  
19 competitors?

20 A No.

21 Q Were there lunch and learns held about  
22 representations that were made to practices?

23 A There were lunch and learns held about how we  
24 message ourselves.

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1 Q And I guess the converse of that would be how  
2 you would not message yourself. were things  
3 discussed that a practice, that a sales executive  
4 should not say?

5 A Yes.

6 Q And do you recall what some of those things  
7 were?

8 A I do not.

9 Q When you held these lunch and learns, did you  
10 lead them?

11 A It would depend on the topic.

12 Q In terms of messaging and what to and to not  
13 say, would you lead those?

14 A Again, that would depend. There was a number  
15 of us that led them, myself, Matt, Rishi, Shradha,  
16 Jim.

17 Q Are documents prepared and handed out at  
18 these lunch and learns?

19 A It depended on the topic.

20 Q Do you recall for the messaging lunch and  
21 learns, were there documents handed out?

22 A I don't recall.

23 Q Were there agendas or notes prepared?

24 A No.

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1 Q Can you think of any other documents that  
2 would be related to these lunch and learns?

3 A If it was a lunch and learn about, you know,  
4 network marketing campaign, we'd bring a copy of the  
5 campaign. Again it just depended on what the topic  
6 being covered was.

7 Q Did you ever conduct an audit of, I guess the  
8 effectiveness of the sales team for RHN?

9 A In terms of --

10 Q I would ask just generally to begin.

11 A An audit in terms of their activities or an  
12 audit of where they are on the pipeline?

13 Q Both.

14 A I would look at overall where a number of  
15 accounts in the different stages of the pipeline.  
16 Matt primarily looked at, was developing into that  
17 manager role and was looking more along the lines in  
18 terms of the different individuals that we would work  
19 together to provide information.

20 Q So you were concerned with each individual's,  
21 I guess sell rate?

22 A Mm hmm.

23 Q And their call rate and other kinds of  
24 metrics?

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1 A Yes.

2 Q And did you look at what they were actually  
3 telling practices?

4 A I wasn't in particular. I can't speak to if  
5 Matt was.

6 Q Do you know if anyone else was besides you  
7 and Matt?

8 A I don't know that answer.

9 Q And did you review any of the e-mails that  
10 went out by the practice relations team? I'm sorry,  
11 by the member outreach team?

12 A Like spot check?

13 Q Yes.

14 A No, that wasn't -- my dealings with the sales  
15 team was a little bit higher level than that.

16 Q Who would have had that kind of granular --

17 A Responsibility?

18 Q -- check, yes.

19 A Matt Garms, Rishi Shah.

20 Q You mentioned earlier that these  
21 representations would hurt the value or the integrity  
22 of the brand. Why was that?

23 MR. O'BRIEN: I'll object to the form. She  
24 can answer.

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1 A They had the potential to hurt the brand  
2 because for me, I wanted to make sure that everything  
3 that we said and presented was accurate.

4 BY MR. BERNAY:

5 Q And sometimes it wasn't?

6 A Yes.

7 Q We've talked about this, different facets of  
8 it, but did you have specific conversations with, for  
9 example, Rishi Shah about the protocol to switch out  
10 HAN, the HAN equipment?

11 A I recall conversations regarding competitor  
12 switch out and what that process -- what is the  
13 process.

14 Q And was Rishi essentially just telling you  
15 what the process was, was going to be? Or was it a  
16 discussion of what it should be?

17 A He did not speak to me regarding what that  
18 process should be. It was laddered down to me after  
19 it was discussed between him, Jim and other  
20 individuals.

21 Q And did you have direct discussions with Jim  
22 about it?

23 A I don't recall.

24 Q You mentioned earlier that you gathered a lot

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1 of competitive material at conferences.

2 A Mm hmm.

3 MR. BERNAY: So I'm going to mark this as 14.

4 (Documents marked as Plaintiff's Group

5 Exhibit 14 for identification.)

6 Q Take a minute and have a look at this e-mail.

7 Do you recall this correspondence?

8 A Unfortunately, yes.

9 Q Why unfortunately?

10 A This is not something that was sanctioned by  
11 the company at all and is not how we do things.

12 Q And I'll represent to you we don't have the  
13 original, a stand alone original e-mail in this  
14 string. Do you recall sending this e-mail to the  
15 individuals kind of in the middle here, Rishi, Jim  
16 Demas, Matt Garms?

17 A Yes.

18 Q And why did you send the e-mail?

19 A Matt made me aware of something that had  
20 occurred at the conference after I had left. And it  
21 was something that I wasn't sure what was going to  
22 happen from it and I wanted to make senior management  
23 aware of a potential situation.

24 Q And you describe Mr. Cavanna as an

Jeana Loewe March 5, 2014

1 enterprising individual who borrowed a badge from one  
2 of the reps. You were at this conference?

3 A I was, but I had left prior to this  
4 happening.

5 Q And if you turn to the second page you write,  
6 "Matt is currently in possession of the materials.  
7 My initial thought is to come into the office  
8 tomorrow before the show and make copies and burn the  
9 programming disk." Why was that?

10 A Matt and I had a conversation. We were like,  
11 well, if we have the materials, might as well make a  
12 copy of it before returning.

13 Q And in fact is that -- and Rishi essentially  
14 tells you to do the same, is that right, on the first  
15 page?

16 A Yes.

17 Q And is that what happened?

18 A Yes.

19 Q And did you make the copies?

20 A I did.

21 Q And what did you do with the copies of the  
22 materials?

23 A I made copies of the hand held materials, the  
24 hard copies, and scanned them in and placed them in a

Jeana Loewe March 5, 2014

1 competitive intelligence folder on our server.

2 Q And then you say at the end of that  
3 paragraph, first paragraph on the second page, "when  
4 I get on site", meaning, I assume, back to the  
5 conference?

6 A Mm hmm.

7 Q "I'm going to go to Accent Health and return  
8 the materials to the individual and apologize that I  
9 was unaware that this had taken place. I want them  
10 to know that this is not how we play the game." So  
11 what do you mean by that, this is not how we play the  
12 game?

13 A With trade shows, it's fairly common practice  
14 across any industry that if your competitor leaves  
15 materials out on their booth, there is an opportunity  
16 to come by and take a copy of them. What is not  
17 acceptable in my eyes is, or anyone at Context, when  
18 we have these, when we had the follow-up  
19 conversations is that you cannot go and pose as  
20 someone else, particularly a potential sponsor, to  
21 gain copies of materials.

22 Q But nonetheless, Context made sure that it  
23 had a copy of what was received?

24 A Yes.



Jeana Loewe March 5, 2014

1 Q And did you believe that Patrick Cavanna  
2 showed initiative and was enterprising by borrowing  
3 that badge?

4 A No, I was being cheeky, which he and I had  
5 had a conversation that evening via phone where I  
6 essentially yelled at him. And he was very  
7 remorseful for his -- he came across as very  
8 remorseful for his actions.

9 Q Do you know if he was reprimand in any way?

10 A That I do not know.

11 Q And once you had this material, what did  
12 you -- I know you made copies of it, but what did you  
13 do with it after that?

14 A I read through it. Much of it was the same  
15 as everything that we had already had in hand.

16 Q And the programming disk?

17 A Gave that to the media operations team.

18 Q And were these materials uploaded to a  
19 competitor information folder?

20 A Yes.

21 Q And so what -- can you tell me about that  
22 folder? What is it?

23 A Just an archive of marketing materials that  
24 are either used at a trade show or a practice would

Jeana Loewe March 5, 2014

1 send to us.

2 Q And what did you use it for?

3 A Background knowledge about competitors,  
4 seeing what -- a lot of it was used to put together  
5 an analysis so we knew how we compared.

6 Q And where was that folder located?

7 A On Context's server.

8 Q The Context server which, did everyone have  
9 access to that server in the office?

10 A Yes.

11 Q And were the outreach executives encouraged  
12 to review those folders?

13 A They were made aware of them. I don't recall  
14 if they were told to specifically go in and review  
15 them.

16 Q And did you have a folder for each competitor  
17 within the RHN universe?

18 A That we were aware of.

19 Q That you were aware of, yes.

20 A Yes.

21 MR. BERNAY: I'm going to mark Exhibit 15.

22 (Document marked as Plaintiff's Exhibit 15  
23 for identification.)

24 Q Take a minute to review this e-mail. Do you

Jeana Loewe March 5, 2014

1 recall viewing the HAN video clip discussed in this  
2 e-mail?

3 A I don't recall reviewing the full video, no.

4 Q Reviewing the full video. Do you remember  
5 watching some of the video?

6 A I can't recall whether I did or not.

7 Q And this is, we spoke before about the  
8 competitor intelligence folder.

9 A Mm hmm.

10 Q And this is the, I guess the file path to  
11 that folder, CM server one, marketing competitor  
12 intelligence?

13 A Yes.

14 Q And were you responsible for managing that  
15 folder?

16 A No, it was a community folder that if you  
17 had, you know, Mike put items into it, Silvia would  
18 put items into it, people who came across things.

19 Q Besides this loop -- so do you recall  
20 anything about this loop at all?

21 A No.

22 Q During your time at Context, did you see  
23 other HAN loops?

24 A I don't recall.

Jeana Loewe March 5, 2014

1 Q There is a note on the third paragraph that  
2 says do not try and play it, meaning the loop, off  
3 the server. Beyond that, if you delete or mess  
4 anything up, the marketing team will ruin you. Why  
5 is that?

6 A Because all of our marketing materials were  
7 saved in these folders and the team had a habit of,  
8 if they went into a file and were customizing it for  
9 their own, they would accidentally save over our  
10 materials.

11 Q So there's other material in there including,  
12 I assume, work documents that could be overridden?

13 A Yes.

14 Q And during your time at Context, did this  
15 competitor intelligence folder remain in the same  
16 place or did it move somewhere else within the  
17 server?

18 A I don't know.

19 Q As far as you know, it was always in the same  
20 place?

21 A I think so.

22 Q We talked earlier about growth and revenue  
23 targets. And there were monthly goals in terms of  
24 the number of practices that needed to be on boarded,

Jeana Loewe March 5, 2014

1 is that right?

2 A Yes.

3 Q And who set those goals?

4 A Rishi.

5 Q And do you know -- and those goals varied  
6 month to month, is that right?

7 A Yes.

8 Q And do you know why those goals varied?

9 A Varied based off of previous months' sales as  
10 well as his conversations with J&J regarding growth.

11 Q So would you say that the goals were more or  
12 less fluid over time, so one month the sponsor would  
13 want -- would need this and another month a sponsor  
14 would need a higher number of practices?

15 MR. O'BRIEN: Object to the form.

16 A No.

17 BY MR. BERNAY:

18 Q So there was always one or two targets you  
19 were driving for in terms of growth over time? So  
20 for example, I'll give you an example, was the idea  
21 to have a certain number of practices on board by the  
22 end of 2011?

23 A The number of practices were based on an  
24 annual contract signed by sponsors.

Jeana Loewe March 5, 2014

1 Q Which included minimum number, included a  
2 requirement in terms of minimum numbers of practices  
3 in the network?

4 A For, yes, for the course of that time period.

5 Q I'm going to show you what I'll mark as  
6 Exhibit 16.

7 (Documents marked as Plaintiff's Group  
8 Exhibit 16 for identification.)

9 Q So let me ask you, top line e-mail is one  
10 from you to, it looks like various individuals but  
11 not the member outreach team in mid May 2012. It  
12 concerns hitting a certain number of practices. You  
13 say, "All right, so following up with the e-mail from  
14 last Tuesday, we now have ten new installs scheduled  
15 between now and May 31. This is going to bring us up  
16 to 401." when you count practices for, I guess for  
17 sponsorship purposes, you can't fully count a  
18 practice until it's installed, is that correct?

19 A In terms of what we put, like if a sponsor  
20 asks how many screens do you have up, are you asking  
21 that we can't count a screen until it has  
22 programming -- unless it has programming playing,  
23 correct?

24 Q I guess so, yes.

Jeana Loewe      March 5, 2014

1           A    Then yes, a screen has to be playing  
2   programming within the office to be counted as --  
3   towards these numbers.

4 Q Okay. And if you look in the second  
5 paragraph towards the end you're talking about, I'll  
6 just read it, "This still puts us short of our goal  
7 for June to see if there were any we could push into  
8 May. I note that as of right now, we only have two  
9 RHN installations scheduled for the entire month.  
10 This very much concerns me as we need to be hitting  
11 450 by June 30." So your sales targets are set a few  
12 months in advance?

13

Response	Percentage
Yes	13%
No	87%

Jeana Loewe March 5, 2014

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

20

MR. BERNAY: I'm going to mark this as

21

Exhibit 17.

22

(Document marked as Plaintiff's Exhibit 17

23

for identification.)

24

Q And here I'm going to ask you if -- this is



Jeana Loewe March 5, 2014

1 an e-mail from you to Pat Cavanna and Matt Garms on  
2 September 29, 2011. And you're asking Pat and Matt  
3 at the beginning, "As you are both aware, Healthy  
4 Advice is essentially the easiest competitor for us  
5 to sell against and switch out." why is that? why  
6 are they the easiest competitor?

7 A The feedback that we had been receiving from  
8 practices is that they preferred the content and the  
9 length of the ContextMedia loop versus the Healthy  
10 Advice programming.

11 Q Any other reason?

12 A Not that I can recall at this time.

13 Q So here you are, in the e-mail it says,  
14 "Attached you will find a list of Context accounts  
15 that have been marked in Quickbase as unqualified due  
16 to having Healthy Advice installed. As they have  
17 been marked unqualified, they are not being followed  
18 up on." And then you go on to assign the accounts  
19 for followup. I assume that this is a list, direct  
20 mail list for Healthy Advice. So you were  
21 specifically targeting Healthy Advice practices?

22 A At this point in September, yes.

23 Q And why was that?

24 A If I recall correctly, the directive was

Jeana Loewe March 5, 2014

1 given from Shradha and Rishi that this is one of the  
2 marketing campaigns that they wanted to do.

3 Q And do you know why that was?

4 A I don't know.

5 Q And so do you recall following up to make  
6 sure that they had been calling these practices?

7 A I don't recall.

8 Q And similarly, let me just kind of ask you,  
9 take a step back and ask why would these practices  
10 be, quote, "unqualified" because of Healthy Advice?

11 A The approach that the sales team was taking  
12 for the most part is that they had so many accounts  
13 assigned to them that we want to make sure that they  
14 were touching each of the accounts. So as more sales  
15 team members came on board and the accounts, that  
16 limited universe, how they would be divided up  
17 amongst more people, we were then encouraging them to  
18 go back and revisit accounts that they had previously  
19 touched to see if they could gain any traction.

20 Q But why would -- I'm curious about the  
21 terminology. Why would these be unqualified  
22 practices?

23 A Limitation of the fields that were available  
24 in Quickbase.

Jeana Loewe March 5, 2014

1 Q That's all?

2 A Mm hmm. So essentially it was either open --  
3 there was like five fields. And so they didn't have  
4 the functionality to be able to break it and divide  
5 it further, at least to my knowledge, using  
6 Quickbase.

7 Q So what does unqualified represent, then?

8 A Don't spend your time on it right now.

9 Q So it's not a good lead?

10 A Correct.

11 Q And that's because the practices communicated  
12 that they're not interested?

13 A They communicated they weren't interested or  
14 the sales team wasn't getting any traction.

15 Q When a practice tells the sales team that  
16 they want to be taken off the list and not called,  
17 does the sales team do that?

18 A To my knowledge, yes.

19 Q I'm going to turn back to the previous  
20 exhibit as well, just something else. If you look,  
21 so this is Exhibit 16. And again I think I'm kind of  
22 picking up on your point here about unqualified  
23 accounts. If you look, there's a paragraph that  
24 starts "separately" in the middle of the page.

Jeana Loewe March 5, 2014

1 "Separately, I'm going through the RHN unqualified to  
2 reopen accounts to the team. For the majority of  
3 last year, accounts of the competitor have been quick  
4 to unqualify and as the team inherited accounts, we  
5 changed our ability to sell against competitors.  
6 These have not been revisited for the most part. I  
7 believe that there are a number of accounts here we  
8 can easily flip, especially if they are Healthy  
9 Advice."

10 So again -- and this e-mail is dated 2012.  
11 So again there was another push or emphasis on  
12 Healthy Advice practices in mid 2012?

13 MR. O'BRIEN: Object to the form. You can  
14 answer.

15 A What is the question?

16 BY MR. BERNAY:

17 Q There was never -- does this indicate that  
18 there was another push or emphasis to gain Healthy  
19 Advice practices in mid 2012?

20 A This is indicating that there's opportunities  
21 within accounts that had not been touched in a while,  
22 not -- they happen to be Healthy Advice. It isn't a  
23 specific against one competitor only.

24 Q Was there a point at which Healthy Advice

Jeana Loewe March 5, 2014

1 began developing a product for the exam room?

2 A I don't know that answer.

3 Q Sorry, Context. I'm confusing my parties.

4 A There had been opportunities to install the  
5 systems into the exam room and there had been talk of  
6 developing an iPad product.

7 Q Did that happen before you left?

8 A Which piece?

9 Q Let's take the iPad piece first.

10 A No.

11 Q And what about the installing on screens in  
12 exam rooms?

13 A On a limited basis based on certain  
14 specifications.

15 Q And were those screens installed in RHN  
16 practices?

17 A Yes.

18 Q And DHN as well?

19 A I can't speak to that.

20 Q And we've mentioned some of these people  
21 today. Who is Jordan Zmick?

22 A Jordan Zmick is a former member outreach  
23 executive.

24 Q He's former?

Jeana Loewe March 5, 2014

1 A Mm hmm.

2 Q why did he leave?

3 A Accepted an opportunity, a different  
4 opportunity.

5 Q And another name I've seen on the e-mails is  
6 Patrick, I think it's Gerrity?

7 A Mm hmm.

8 Q who is he?

9 A A member outreach executive.

10 Q Is he former?

11 A Yes.

12 Q And why did he leave?

13 A Wasn't a good fit, doesn't like cold calling.

14 MR. BERNAY: All right, let's take a break.

15 I'm pretty close to done.

16 MR. O'BRIEN: Okay.

17 MR. BERNAY: I probably have another three or  
18 four minutes of questions and that's it. So  
19 we'll just take a quick break. We're at a little  
20 past noon.

21 (A recess was taken, after which the  
22 following proceedings were had:)

23 BY MR. BERNAY:

24 Q Just to pick up on a thread from earlier, a

Jeana Loewe March 5, 2014

1 couple threads, the exam room products we discussed,  
2 where did the idea for an exam room product come  
3 from?

4 A That I don't know.

5 Q And we talked earlier about why, in relation  
6 to the e-mail I showed you, why it was easier to sell  
7 a HAN practice or switch out a HAN practice. why are  
8 HAN practices easier to sell and switch out than  
9 Accent Health?

10 A A lot of it is the format of the programming.  
11 Accent Health programming was video footage again, as  
12 I mentioned earlier, round table doctor discussions,  
13 things of that nature.

14 Q So your testimony is that the programming  
15 made it more difficult to sell, that Accent Health's  
16 programming made a practice less likely to switch  
17 out?

18 A That's my understanding.

19 Q And that understanding is based on --

20 A Feedback that had been relayed to me from a  
21 number of practices, through the sales team, through  
22 member services.

23 Q We talked earlier about lists. were there  
24 lists for DHN as well?

Jeana Loewe March 5, 2014

1 A Yes.

2 Q And were there multiple lists?

3 A Yes.

4 Q And who provided those lists?

5 A Similar to the Johnson & Johnson list,  
6 sponsors would provide particular physician target  
7 lists. And that was based off scripts being written.

8 Q And who were those sponsors that were  
9 providing the lists?

10 A The only one that comes to mind is Levemir.  
11 That's the one that I recall.

12 Q Anyone else? Any other brand?

13 A Not that I can remember the specific name  
14 for.

15 Q And Levemir provided a list and that list  
16 served as a guide to selling DHN?

17 A Yes.

18 Q You've discussed previously some issues you  
19 had with the sales team today. Have you seen those  
20 types of issues at other marketing positions you've  
21 had?

22 A This is the first position where I worked so  
23 closely with a sales team.

24 Q So you haven't seen that pattern elsewhere?



Jeana Loewe March 5, 2014

1 A I have not worked close enough to sales teams  
2 elsewhere to be able to speak to that.

3 Q Finally, where did you go after you left CM?

4 A I went to Baldwin Richardson Foods.

5 Q And are you still in that job?

6 A No, I was recently recruited for a new job.

7 Q And where do you work now?

8 A Follett.

9 Q The publisher Follett?

10 A They're not a publisher, but yes, education.

11 Q And again, did you do similar things in both  
12 those jobs?

13 A In terms of marketing.

14 Q And why did you leave ContextMedia?

15 A I was laid off.

16 Q You were laid off? Do you know why you were  
17 laid off?

18 A I do not.

19 Q And when did that happen?

20 A September 2012.

21 Q And when you were laid off, were you given a  
22 severance?

23 A Yes.

24 Q Do you know any of the -- were other people

Jeana Loewe March 5, 2014

1 laid off besides you?

2 A Yes.

3 Q Who else?

4 A Two additional individuals in the marketing  
5 team, Michael Gauthier and Terry Lind Jones.

6 Q And how long had both of those individuals  
7 been with the company?

8 A Approximately six months.

9 Q Both of them?

10 A Yes.

11 Q And what were they doing?

12 A Terry was on the sponsorship marketing side,  
13 Michael, marketing, but I wasn't sure, exactly sure  
14 to what regard.

15 Q Michael was marketing but not clear what --

16 A Not a particular brand or product.

17 Q And you were all laid off at the same time?

18 A Approximately, within a few months, about two  
19 months.

20 Q Was anyone else?

21 A No, just the marketing team.

22 Q And are you aware what happened to the  
23 marketing function after you left?

24 A The activities were reduced, focus was

Jeana Loewe March 5, 2014

1 primarily on selling. And I know Matt Garms picked  
2 up some of, more of the marketing activities like,  
3 I'm sorry, conference planning.

4 Q Were you aware if the company was having any  
5 financial difficulties at the time you were laid off?

6 A I do not know.

7 Q What about RHN as a network? Was it meeting  
8 goals?

9 A I don't know because everything had been  
10 wrapped into ContextMedia Health.

11 Q So when you say that ContextMedia -- you were  
12 the brand manager for ContextMedia Health, though,  
13 right?

14 A Mm hmm.

15 Q So you were aware of, you would have been  
16 aware of how they were, I guess what was previously  
17 DHN and RHN were meeting targets, is that right?

18 A When it became ContextMedia Health, when the  
19 systems were merged and it became ContextMedia  
20 Health, it was -- we were given one sales number to  
21 go towards. It wasn't broken down by network at that  
22 point any more.

23 Q So it was just a whole list, a number that  
24 blended the previous networks?

Jeana Loewe March 5, 2014

1 A Yes.

2 Q And after that kind of merger happened, was  
3 the company hitting those numbers?

4 A I don't recall.

5 Q And again, when did that transition to  
6 ContextMedia Health take place?

7 A Summer 2012.

8 Q Do you still keep in touch with the Context  
9 people?

10 A I do.

11 Q Who do you keep in touch with?

12 A Numerous individuals that are there. Are you  
13 looking for specific names or --

14 Q Sure. Do you keep in touch with Matt Garms?

15 A Yes.

16 Q With Mr. Cavanna?

17 A Yes.

18 Q Mr. Vandersteen?

19 A Yes.

20 Q Anyone else I'm missing? Just the whole  
21 crew?

22 A I mean, pretty much the whole sales team.

23 Q When you were employed by ContextMedia, did  
24 you receive any stock in the company?

Jeana Loewe March 5, 2014

1 A We were given stock options.

2 Q And did you take them?

3 A I wasn't provided with the paperwork during  
4 the time period. We were just given a letter saying  
5 you've been given X number of stock options, but then  
6 no other paperwork or anything besides that.

7 Q So as of today, do you own stock in  
8 ContextMedia?

9 A No.

10 MR. BERNAY: That's what I've got. Dick,  
11 anything?

12 MR. O'BRIEN: No questions. Signature reserved.

13 (WITNESS EXCUSED.)  
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Jeana Loewe March 5, 2014

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

HEALTHY ADVICE NETWORKS, LLC, )  
Plaintiff, )  
-vs- ) No. 1:12 CV 00610  
CONTEXTMEDIA, INC., )  
Defendant. )

I, JEANA LOEWE, being first duly sworn, on oath  
say that I am the deponent in the aforesaid  
deposition taken on March 5, 2014; that I have read  
the foregoing transcript of my deposition, consisting  
of pages 1 through 109 inclusive, and affix my  
signature to same.

\_\_\_\_\_  
Jeana Loewe

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

Jeana Loewe March 5, 2014

1 STATE OF ILLINOIS)  
2 ) SS.  
COUNTY OF C O O K)

3 I, LYDIA B. PINKAWA, CSR and Notary Public in  
4 and for the County of Cook and State of Illinois, do  
5 hereby certify that on March 5, 2014, at 9:13 a.m.,  
6 at 222 North LaSalle Street, Chicago, Illinois, the  
7 deponent JEANA LOEWE personally appeared before me.

8 I further certify that the said Jeana Loewe was  
9 by me first duly sworn to testify and that the  
10 foregoing is a true record of the testimony given by  
11 the witness.

12 I further certify that the deposition  
13 terminated at 12:27 p.m.

14 I further certify that I am not counsel for nor  
15 related to any of the parties herein, nor am I  
16 interested in the outcome hereof.

17 In witness whereof, I have hereunto set my hand  
18 and seal of office this 12th day of March, 2014.

19

20

21

Notary Public

Jeana Loewe March 5, 2014

MERRILL LEGAL SOLUTIONS  
311 South Wacker Drive - Suite 300  
Chicago, Illinois 60606  
(312) 386-2000 (800) 868-0061

March 12, 2014

Ms. Jeana Loewe  
c/o Sidley Austin, LLC  
One South Dearborn Street  
Chicago, Illinois 60603  
Attn: Mr. Richard O'Brien

Re: Healthy Advice vs. ContextMedia  
No. 1:12 CV 00610  
Deponent: Jeana Loewe

Dear Ms. Loewe:

The above referenced deposition has been transcribed and is ready for review, pursuant to the Rules of Court.

Please contact our office at your earliest convenience for an appointment to review the deposition transcript or you may contact counsel for a copy of the transcript for your review.

Upon failure to comply within 30 days, we shall forward an appropriate affidavit of noncompliance to counsel without further notice.

Very truly yours,

---

Merrill Legal Solutions

cc: Counsel of record 1p219292

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Jeana Loewe March 5, 2014

CASE: HAN v. Context DATE TAKEN: March 5, 2014

DEPONENT: Jeana Loewe

PAGE LINE

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(signed) \_\_\_\_\_ DATE \_\_\_\_\_

Reporter: Lydia B. Pinkawa

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